

Causes of Claims in the Construction Project

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Abstract:

Claims on construction projects are requests or demands for adding costs, and time of construction. Claims can trigger a dispute because the implementation of the project is not in accordance with the contract. Construction contracts are used as guidelines in submitting construction claims. Studies of construction claims have been carried out by various researchers, and every cause of construction claims is influenced by location / area, and project characteristics. This study aims to establish the theoretical framework for the cause of contractor claims for delays in construction projects from literature review, various research results, literature, and various relevant information. According to a review of several articles / research, obtained factors that influence claims are design changes.

Keywords – claims, contractors, construction, owners, projects

I. INTRODUCTION

The construction industry is a complex industrial sector, and can contribute to economic growth in Indonesia. The role of the construction industry is cooperation from various sectors. However, relations between these sectors often run less smoothly, due to the construction industry often having complicated problems, so that relations with other sectors are disrupted. This is

due to the development of the construction industry being a complex industry both in terms of forms, costs, contract systems, and existing resources. For project owners, especially the government, it avoids claims, while contractors are reluctant to make claims, for fear of being recorded as a contracting company that has poor performance (Yasin, 2004).

This article presents review results of the causes of claims on private and government projects. Construction claims occur because one

party fails to carry out its responsibilities and obligations. In implementing the project, the agreement reached is stated in the contract document. But during this time, there were still frequent disputes between the owner and the contractor, or the contractor blamed the consultant. To minimize the problem, it is very important to know the risks that can occur in the project, and whether those risks are covered in the contract articles. Risk is one of the important things that must be considered in each project. Risk occurs in every project and contractor, therefore, it must be aware of the effects of risk by implementing good risk management. Risk is a condition that arises because of uncertainty in the implementation of a construction project.

Claims is demands, however, the notion of claims according to Wibowo (2009), that claims are categorized into three as contractual claims, ex-contractual claims, and common law claims, as well as formulating four strategies for contractors so that claims can be overcome, namely recognizing claims, providing accurate notifications, collecting documentation complete, and present claims so that the owner can grant the claim submitted.

Claims will arise when one party believes that it has been harmed by another party neglecting its contractual obligations, therefore it needs to get compensation (Kuluanga et al., 2000). Claims can occur with owners, contractors or suppliers (Cox, 1997). The definition of claim is more directed at

the contractor's request to compensate for losses or avoid liquidated damages (Seeley, 1993).

It can be concluded that claims occur because of a request for the implementation of a construction service work between the contractor and the owner, or with a sub contractor related to additional costs, time and other compensation. Yasin (2004) concluded that the main causes of construction claims are:

- 1) Inaccurate design information
- 2) Incomplete design information
- 3) Investigation of incomplete locations
- 4) Slow client reactions / responses
- 5) Poor communication between human resources
- 6) Time targets that are not realized
- 7) Imperfect administration
- 8) Incomplete tender information
- 9) Unclear risk allocation
- 10) Late payment

Due to delays in construction projects and additional costs, it is important to know what factors contribute to claims in the construction project.

The incompatibility of the realization with the expectations of the construction project has the potential to cause losses to the owner and the implementing contractor. Incompatibility that occurs is the time of implementation, namely the project is completed outside the time set. Parties who experience losses due to delays must be able to

recognize who should be responsible for the delay (Arditi 2008), then can take appropriate steps to reduce or eliminate the losses incurred. Based on the responsible party, delay can be classified into three, namely due to owner delays (commonly known as type E), contractors (type C), and not due to owners and contractors (type N). Determination of the responsible party is important to determine the type of compensation that must be given, whether time compensation, and cost compensation (Scott 1997)

II. METHODOLOGY

The purpose of writing this article is to establish a theoretical framework for potential construction claims by contractors, conducting studies from previous studies, journals, and from relevant literature reviews. The methodology used in this article is using the study of literature.

III. RESULTS AND DISCUSSION

Identification of potential claims by contractors on construction projects is carried out by conducting studies from various literature studies. The study of construction claims by contractors to the owners of construction projects is often done, different results regarding the main causes of contractor claims to the owners of construction projects have been investigated by previous researchers.

Wibowo (2009) presented the results of a

survey of construction service actors about the practice of contractor claims to project owners, because the delay was the responsibility of government construction project owners. Based on frequency, there are three main reasons why claims are not submitted by contractors are (1) claims are not significant, (2) unpreparedness of supporting claims documents, (3) the need to maintain good relations with service users. Meanwhile the reason for service users (project owners) rejecting contractor's claims is (1) claims not regulated in the contract, (2) incomplete supporting documents for claims, (3) budget unavailability.

According to Pasaribu (2009), there are findings that claims have a correlation of 81.2% on time performance. There are claims that affect payments to air conditioning subcontractors, architectural subcontractors, and interior subcontractors. Chandra (2005) stated that the main causes of claims were design changes and added work carried out by building owners, whereas contractor claims often took the form of additional costs, and claim settlement methods, which are often used by parties are engineering judgment methods.

According to Satwanirat (2009), building construction claims submitted by the contractor to the owner during the construction process almost frequently occur, and a good understanding of claim submission is needed which can help contractors in the process of submitting their

claims, claims get additional time, additional costs and or compensation.

According to Putri (2013), the implementation of construction project claims is divided into the consequences of (1) the actions of the project owner, (2) the consultant planner's actions, (3) supervisory counseling, and (4) external factors. According to Nurisra (2009), there are 7 groups of factors that cause claims, namely: 1) contract articles that are incomplete and clear, 2) conflicts in design, specifications and special risks, 3) changes or modifications to the contents of contracts, 4) weather conditions, 5) differences in field conditions, 6) changes in schedule by the owner, 7) delays due to the owner. The most potential claim in the ranking is higher than usual rainfall, and the land investigation conducted by the owner does not describe the project land conditions.

IV. CONCLUSION

Construction claims caused by the owner as a demand for the contractor, which leads to requests for additional time to complete, and is still a problem that is always present in every construction project. The results of the study on the factors causing the submission of construction claims from several articles / studies determine the main rating, namely the change in design by the owner, and the delay in approving and submitting the design, followed by higher than usual rainfall conditions, and investigations of land that is not according to

field conditions. The impact of submitting these claims is the addition of work, implementation time, and compensation.

Claims that occur can be solved by several mutually agreed methods, and included in the contract, among others (Malak, 2002; Barrie, 1992; Edward, 1997) : (1) Engineering Judgement, where the design consultant appointed by the building owner is responsible for making the final decision on the settlement of the claim and binding on all parties. (2) Negotiation, where the disputing party seeks a solution without interference from other parties. (3) Mediation, where the disputing party uses a neutral mediator and the decision is non-binding. (4) Arbitration, where the disputing party appoints the arbitrator and the decision is binding. (5) Litigation, where disputes are brought to court and each party is represented by its lawyer. (6) Mini-trial, where the disputing party is represented by each project manager and the third party is an advisor. (7) Dispute review board, where each disputing party chooses one representative to appoint a third party and the decision is non-binding.

According to (Malak, 2002), To control risk and avoid claims, several ways can be done, namely: The parties concerned must study the contract as well as possible, insurance, check the construction work program before the offering period, choose a competent construction team, apply the system

management information to identify potential problems.

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